

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
W/S Leeds Avenue, 25 ft. (+/-) * ZONING COMMISSIONER
3 of 1/1 Beechfield Avenue *
1000 Leeds Avenue * OF BALTIMORE COUNTY
14th Election District *
1st Councilmanic District * CASE # 92-347-SPH
Elmer J. McFadden *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, seeking approval of a nonconforming use and expansion of same by less than 25% of the total floor area, all as more particularly described on Petitioners' Exhibit No. 1, the plat to accompany the Petition.

The subject property, known as 4200 Leeds Avenue, is owned by the Order of the Alhambra, Inc. Their representative, Elmer J. McFadden, appeared at the hearing and was represented by John Gontrum, Esquire. Also appearing was J. Scott Dallas, the surveyor who prepared the plan. There were no protesters present.

Testimony and evidence submitted at the hearing disclosed that the subject property is a small lot of approximately .152 acres (+/-). It is zoned D.R.5.5 and is presently improved by a one story vinyl-sided structure. The building is used as a community building and serves as the headquarters of the Order of the Alhambra, Inc. This Order is a charitable/religious Order and is affiliated with the Roman Catholic Church. Its self appointed mission is to help mentally disabled individuals. The subject site was acquired by the Petitioner in 1956. Presently, the building has offices for the four employees of the Order (2 full time and 2 part time), as well as

meeting rooms and storage facilities. In fact, the majority of the building is devoted to the storage needs of the Order, although occasional meetings are held at the site.

As to the nonconforming use, the Petitioner's attorney noted that this community building existed as a matter of right in the subject zone, prior to 1963. At that time, however, Bill 64-163 was adopted, which requires a special exception for community buildings in a residential zone. This regulation remains in effect at the present time. The Petitioner presented evidence that the building has been in its present use since its acquisition, by the Order of the Alhambra, Inc., in 1956. Further testimony was presented that the building has been used in its present fashion, uninterrupted, since that time.

All Petitions for Special Exception are governed by Section 104 of the B.C.Z.R. This section was originally adopted when Baltimore County comprehensively redrafted its zoning regulations in 1955. In essence, the section provides that a nonconforming use may be "grandfathered", provided same has not been abandoned, discontinued or changed for a period of one year or more. Based upon the uncontradicted testimony and evidence before me, it is clear that this use has so continued uninterrupted. Thus I find, as a matter of fact, that this property is legitimately nonconforming.

In addition to this finding, the Petitioner seeks approval to expand the existing structure by the addition of a one story 12-1/2 x 30 ft. addition to the rear of the building. The Petitioner testified that additional storage area was needed and necessitated this request. Section 104.3 of the B.C.Z.R. further provides that a nonconforming use may be expanded up to 25% of the floor area of the building. In that the existing building is approxi-

mately 1544 sq. ft. in area, the proposed expansion of 375 sq. ft. is within this parameter.

Further, it is to be noted that the Petitioner proposes to remove an existing shed from the rear of the building and replace same with the addition. Thus, the extent of the proposed addition, when considering the existing shed area is even less expansive. For these reasons, I am persuaded to grant the Petition as presented.

Although I am persuaded to grant the Petition for Special Hearing as to the nonconforming use and the expansion of same, my findings should address certain comments presented by the Zoning Advisory Committee (ZAC). For example, within the ZAC comments from the Office of Planning and Zoning and the Bureau of Traffic Engineering, it is requested that a detailed parking layout be shown. However, as was indicated at the hearing, the site is small in area and features an existing parking area to the rear of the lot. As noted above, it is rare when more than the four employees are present at the property. Further, the Petitioner has proposed removing the existing retaining wall and relocating same closer to the rear property line. In my view, the existing macadam surface to the rear, even after these adjustments, will provide sufficient space for the facility's parking needs. Thus, I will not require the Petitioner to submit further information in this respect.

The ZAC comments submitted from the Office of Planning and Zoning also request that a landscape plan be submitted as well as architectural elevation drawings and information regarding the materials to be used in construction. It is to be noted that this is a small lot and it is questionable whether any landscaping could be placed on site. The Petitioner also noted the small scale of the addition, and has advised of their intent to con-

struct an esthetically pleasing addition, which will be compatible with the site improvements currently in place.

Based upon these considerations, I am persuaded that the Petition for Special Hearing should be granted without the necessity of adherence to the ZAC comments.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 22nd day of April, 1992 that, pursuant to the Petition for Special Hearing, approval of a nonconforming use and expansion of same by less than 25% floor area, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

LES:mmm

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

ORDER RECEIVED FOR FILING
Date 4/22/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 4/22/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 4/22/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 4/22/92
By [Signature]

Suite 111, Courthouse
100 Washington Avenue
Towson, MD 21204

(410) 887-1386

April 21, 1992

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Hearing
Case No. 92-347-SPH
Elmer J. McFadden, Petitioner

Dear Mr. Gontrum:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm
att.
cc: Mr. Elmer J. McFadden

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County 92-347-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use and expansion of less than 25%.

Property is to be posted and advertised as prescribed by Zoning Regulations

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I, We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

JOHN B. GONTRUM

(Type or Print Name)

Signature

814 Eastern Boulevard

Address

Baltimore, Maryland 21221

City and State

Attorney's Telephone No. 410-686-8274

Legal Owner(s):

ELMER J. MCFADDEN

(Type or Print Name)

Signature

(Type or Print Name)

Signature

8303 Berkwood Court 410-687-6236

Address

Baltimore, MD 21237

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

No REVIEW
346-92 WCR

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER
REVIEWED BY: DATE

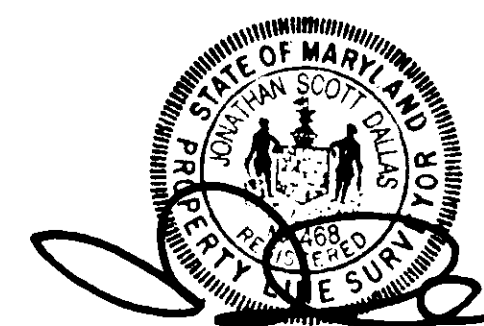
J. S. DALLAS, INC.

SURVEYING & ENGINEERING

4932 HAZELWOOD AVENUE
BALTIMORE, MD 21206
301.866.2001
FAX 301.866.2003

ZONING DESCRIPTION # 4200 LEEDS AVENUE

BEGINNING at a point on the west side of Leeds Avenue, 50 feet wide, at the distance of 25 feet + south of the centerline of Beechfield Avenue, 50 feet wide thence the following courses and distances: (1) North 59 degrees 20 minutes 00 seconds West 128.00 feet (2) South 33 degrees 32 minutes 46 seconds West 45.00 feet (3) South 53 degrees 15 minutes 47 seconds East 128.30 feet and (4) North 33 degrees 17 minutes 05 seconds East 58.57 feet to the place of beginning. Containing 0.152 acres of land, more or less. Also known as # 4200 Leeds Avenue and located in the 13th Election District.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3371 Date of Posting: 4/21/92

Posted for: [Signature]

Petitioner: [Signature]

Location of property: [Signature]

Location of Signer: [Signature]

Remarks:

Posted by: [Signature] Date of return: 4/23/92

Number of Signers: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 326, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 326, 1992.

THE JEFFERSONIAN,

S. Zake Orlan
Publisher

\$39.74

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the proposed expansion of the property located at 4200 Leeds Avenue, 13th Election District, 1st Councilmanic District, Baltimore County, Maryland, 21206, on April 22, 1992 at 2:00 p.m.
Special Hearing to approve a nonconforming use and expansion of less than 25% of a community building.
LAWRENCE E. SCHMIDT
Zoning Commissioner
Baltimore County
NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3393, 3/28/92 March 28.

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

Cashier Validation

Please Make Checks Payable To: Baltimore County

92-347-SPH

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

Cashier Validation

Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

DATE: 3/26/92

Elmer J. McFadden
2303 Bethesda Court
Baltimore, Maryland 21227

RE:
CASE NUMBER: 92-347-SPH
W/S Leeds Avenue, 25' (+/-) S of c/l Beechfield Avenue
4200 Leeds Avenue
13th Election District - 1st Councilmanic
Petitioner(s): Elmer J. McFadden

Dear Petitioner(s):

Please be advised that \$547.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Arnold Jablon
DIRECTOR

cc: John B. Gontrum, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

MARCH 20, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-347-SPH
W/S Leeds Avenue, 25' (+/-) S of c/l Beechfield Avenue
4200 Leeds Avenue
13th Election District - 1st Councilmanic
Petitioner(s): Elmer J. McFadden
HEARING: MONDAY, APRIL 20, 1992 at 2:00 p.m.

Special Hearing to approve a nonconforming use and expansion of less than 25% of a community building.

Lawrence E. Schmidt
Zoning Commissioner of
Baltimore County

cc: Elmer J. McFadden
John B. Gontrum, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

April 6, 1992

John B. Gontrum, Esquire
814 Eastern Blvd
Baltimore, MD 21221

RE: Item No. 365, Case No. 92-347-SPH
Petitioner: Elmer J. McFadden
Petition for Special Hearing

Dear Mr. Gontrum:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

Your petition has been received and accepted for filing this 12th day of March, 1992.

Arnold Jablon
DIRECTOR

Received By:
W. Carl Richards Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Elmer J. McFadden
Petitioner's Attorney: John B. Gontrum

92-347-SPH 4/20 4/8/92

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: April 7, 1992

FROM: Ervin McDaniel, Chief
Office of Planning and Zoning
Development Review Section

SUBJECT: Elmer J. McFadden, Item No. 365

SUMMARY AND RECOMMENDATIONS:

The petitioner is requesting a special hearing to allow for an expansion of less than 25% for a non-conforming use.

Expansion of this office building requires that the parking requirements be shown on the plan to determine whether a variance would be necessary. Furthermore, our office needs to examine the parking layout to determine if internal circulation is satisfactory.

The building addition should be compatible with the existing building in terms of architecture and building materials.

Finally, a schematic landscape plan is required.

Based upon the information provided and analysis conducted staff recommends APPROVAL of the petitioners request subject to the following:

1. A detailed parking layout showing the parking required and parking provided needs to be shown.
2. Architectural elevations and materials should be reviewed by the Director, Office of Planning and Zoning prior to the issuance of building permits.
3. A landscape plan shall be reviewed and approved by the Director, Office of Planning and Zoning prior to the issuance of building permits.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

EM/FM/rdn
365.ZAC/ZAC1

RECEIVED

92-347-SPH 4/10 4/8/92

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: April 8, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: March 24, 1992

ITEM NUMBER: 365

The issue of parking should be adequately addressed.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

RECEIVED

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500 (301) 887-4500

MARCH 31, 1992

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: ELMER J. MCPADDEN
Location: #4200 LEEDS AVENUE
Item No.: 365 Zoning Agenda: MARCH 24, 1992

Gentlemen:

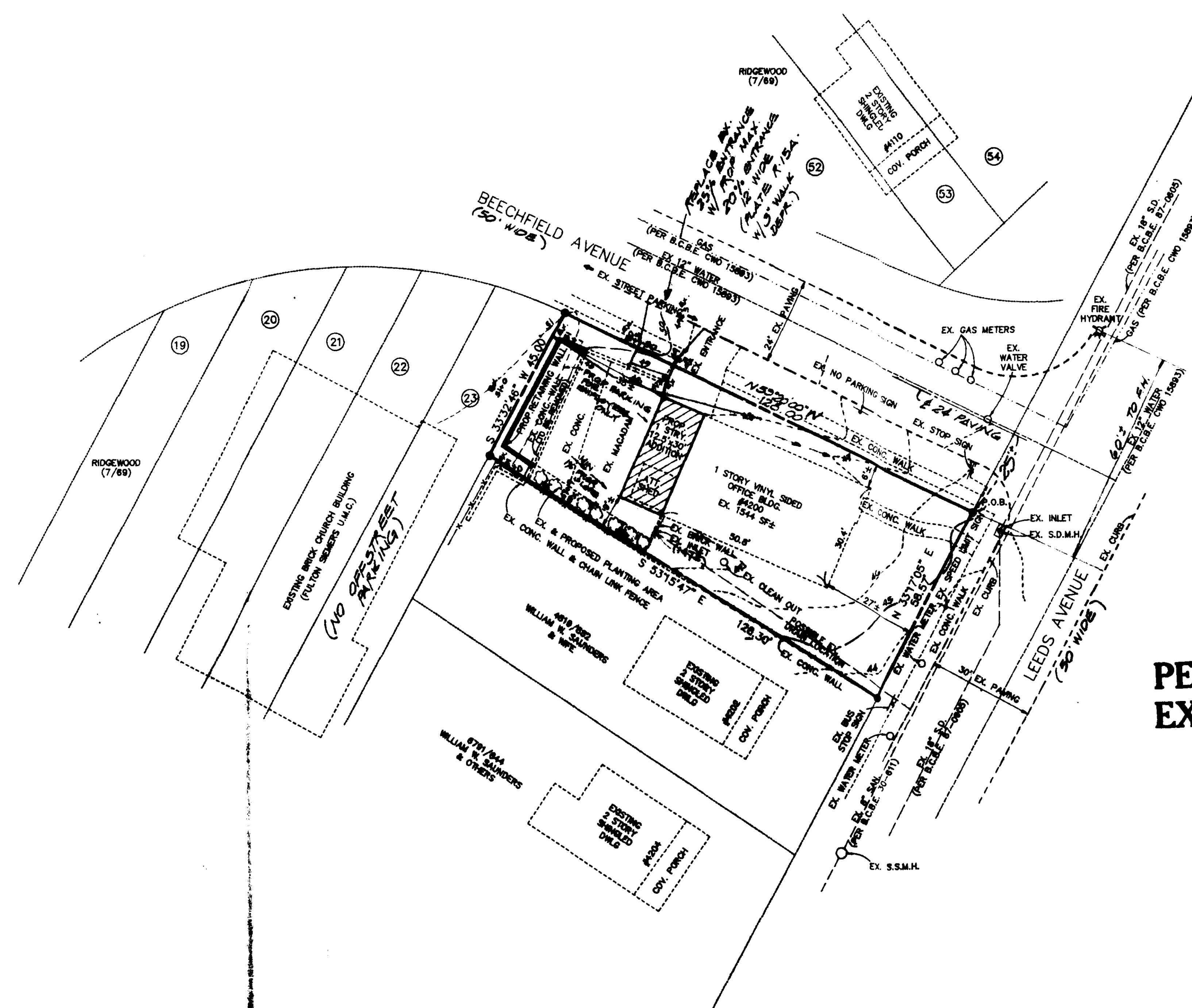
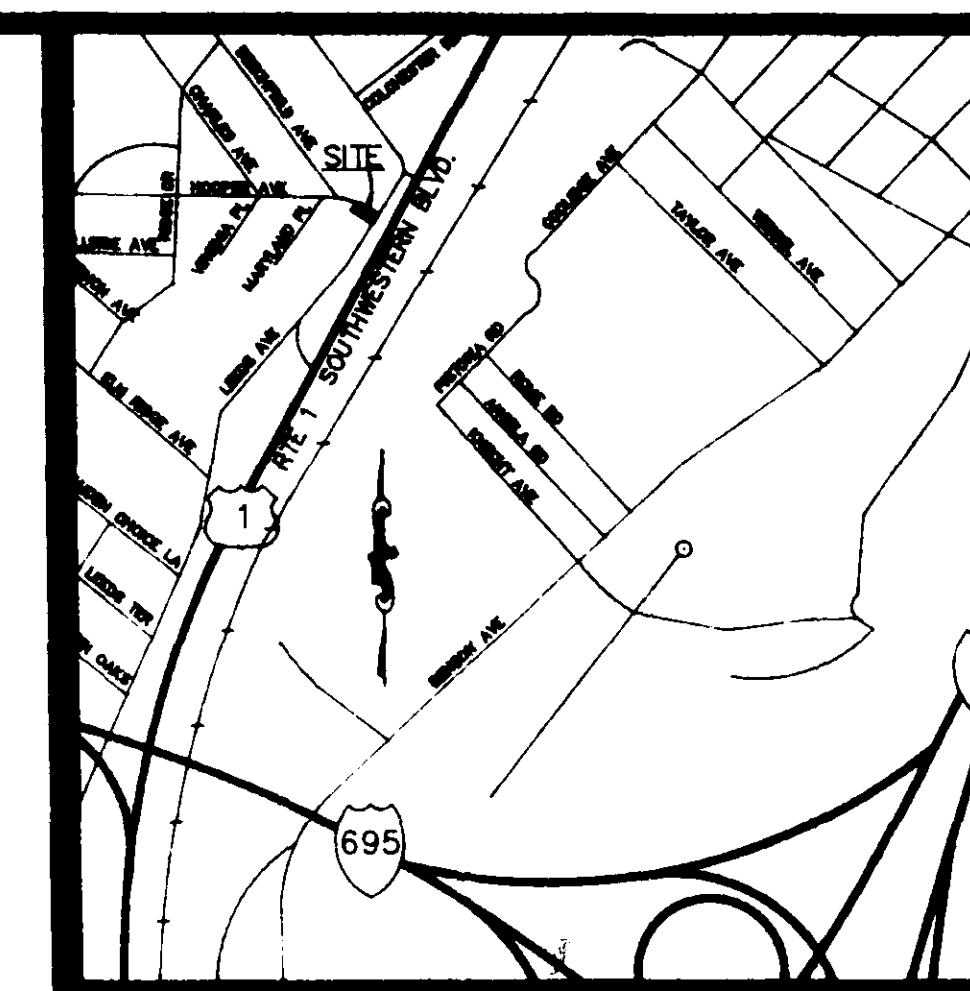
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt. [Signature] Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JP/KEK

- NOTES:**
1. ELECTION DISTRICT 13
 2. COUNCIL DISTRICT 1
 3. CENSUS TRACT 4309
 4. WATERSHED 29
 5. SUBSEWERED 74
 6. SITE ACREAGE NET = 0.152 AC.± GROSS (BOTH PDS.) = 0.259 AC.±
 7. EX. ZONING OF SITE & SURROUNDING PROPERTIES, D.R. 5.5
 8. DISTANCE FAR < 1930/11280 = 0.17
 9. NO KNOWING WELLS, SDS OR UNDER GROUND TANKS ON SITE
 10. OUTLINE HEROCON PER "PROPERTY SURVEY" BY A.M. BOTTERILL (REG. No. 357)
 11. DATED 10-03-88, AND RECOVERED PROPERTY MATTERS
 12. SITE SPECIFIC SURROUNDING PROPERTIES LYS PER U.S.D.A. 1976
 13. BALTO. CO. SOIL SURVEY
 14. SEE MAPPER @ W-32.3.



92-347-SPH

[illegible]

C.R.G. PLAN #
PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING
FOR NON-CONFORMING USE AND 25% EXPANSION
#4200 LEEDS AVENUE
13th ELECTION DISTRICT BALTIMORE COUNTY, MD.
SCALE, 1" = 20' 01-08-92

OWNER
ORDER OF THE ALHAMBRA, INC.
C/O ELMER J. McFADDEN
4200 LEEDS AVENUE
BALTIMORE MD. 21229

DEED REFERENCE: 2884/323
TAX ACCOUNT #: 1315640030



DWC-93